



General Assembly

January Session, 2001

***Amendment***

LCO No. 7835

Offered by:

SEN. PETERS, 20<sup>th</sup> Dist.

To: Subst. Senate Bill No. 1129

File No. 473

Cal. No. 340

**"AN ACT CONCERNING RIGHTS OF WATER COMPANY  
CONSUMERS."**

1 Strike out everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 25-32e of the general statutes is repealed and the  
4 following is substituted in lieu thereof:

5 (a) If, upon review, investigation or inspection, the Commissioner of  
6 Public Health determines that a water company has violated any  
7 provision of section 25-32, section 25-32d or any regulation adopted  
8 under section 25-32d, or any regulation in the Public Health Code  
9 relating to the purity and adequacy of water supplies or to the testing  
10 of water supplies or any report of such testing, the commissioner may  
11 impose a civil penalty not to exceed five thousand dollars per violation  
12 per day upon such water company. Governmental immunity shall not  
13 be a defense against the imposition of any civil penalty imposed  
14 pursuant to this section. The commissioner shall adopt regulations, in  
15 accordance with the provisions of chapter 54, establishing a schedule

16 or schedules of the amounts, or the ranges of amounts, of civil  
17 penalties which may be imposed under this section. In adopting such  
18 regulations, the commissioner shall consider the size of or the number  
19 of persons served by the water company, the level of assessment  
20 necessary to insure immediate and continued compliance with such  
21 provision, and the character and degree of injury or impairment to or  
22 interference with or threat thereof to: (1) The purity of drinking water  
23 supplies; (2) the adequacy of drinking water supplies; and (3) the  
24 public health, safety or welfare. No such civil penalty may be imposed  
25 until the regulations required by this subsection have been adopted.

26 (b) In setting a civil penalty in a particular case, the commissioner  
27 shall consider all factors which the commissioner deems relevant,  
28 including, but not limited to, the following: (1) The amount of  
29 assessment necessary to insure immediate and continued compliance  
30 with such provision; (2) the character and degree of impact of the  
31 violation on the purity and adequacy of drinking water supplies; (3)  
32 whether the water company incurring the civil penalty is taking all  
33 feasible steps or procedures necessary or appropriate to comply with  
34 such provisions or to correct the violation; (4) any prior violations by  
35 such water company of statutes, regulations, orders or permits  
36 administered, adopted or issued by the commissioner; (5) the character  
37 and degree of injury to, or interference with, public health, safety or  
38 welfare which has been or may be caused by such violation; and (6)  
39 whether the consumers of the water company have been notified of  
40 such violation.

41 (c) If the commissioner has reason to believe that a violation has  
42 occurred, the commissioner may impose a penalty if compliance is not  
43 achieved by a specified date and send to the violator, by certified mail,  
44 return receipt requested, or personal service, a notice which shall  
45 include: (1) A reference to the sections of the statute or regulation  
46 involved; (2) a short and plain statement of the matters asserted or  
47 charged; (3) a statement of the amount of the civil penalty or penalties  
48 to be imposed; (4) the initial date of the imposition of the penalty; and  
49 (5) a statement of the party's right to a hearing. The commissioner shall

50 send a copy of such notice to the local director of health in the  
51 municipality or municipalities in which such violation occurred.

52 (d) The civil penalty shall be payable for noncompliance on the date  
53 specified in subsection (c) of this section and for each day thereafter  
54 until the water company against which the penalty was issued notifies  
55 the commissioner that the violation has been corrected. Upon receipt  
56 of such notification, the commissioner shall determine whether or not  
57 the violation has been corrected and shall notify the water company, in  
58 writing, of such determination. The water company may, within  
59 twenty days after such notice is sent by the commissioner, request a  
60 hearing to contest an adverse determination. If, after such hearing, the  
61 commissioner finds that the violation still exists, or if the water  
62 company fails to request a hearing, the penalty shall continue in force  
63 from the original date of imposition.

64 (e) The water company to which the notice is addressed shall have  
65 twenty days from the date of mailing of the notice to make written  
66 application to the commissioner for a hearing to contest the imposition  
67 of the penalty. The water company shall send a copy of such  
68 application to the local director of health in the municipality or  
69 municipalities in which such violation occurred. All hearings under  
70 this section shall be conducted pursuant to sections 4-176e to 4-184,  
71 inclusive, except that the presiding officer shall automatically grant  
72 each local director of health in the municipality or municipalities in  
73 which such violation occurred intervenor status in the proceeding.  
74 Any civil penalty may be mitigated by the commissioner upon such  
75 terms and conditions as the commissioner, in the commissioner's  
76 discretion, deems proper or necessary upon consideration of the  
77 factors set forth in subsection (b) of this section.

78 (f) A final order of the commissioner assessing a civil penalty shall  
79 be subject to appeal as set forth in section 4-183 after a hearing before  
80 the commissioner pursuant to subsection (e) of this section, except that  
81 any such appeal shall be taken to the superior court for the judicial  
82 district of New Britain and shall have precedence in the order of trial

83 as provided in section 52-191. Such final order shall not be subject to  
84 appeal under any other provision of the general statutes. No challenge  
85 to any such final order shall be allowed as to any issue which could  
86 have been raised by an appeal of an earlier order, notice, permit, denial  
87 or other final decision by the commissioner. The local director of health  
88 in the municipality or municipalities in which such violation occurred  
89 for which the order was assessed shall have the right to be heard on  
90 such appeal.

91 (g) If any water company fails to pay any civil penalty, the Attorney  
92 General, upon request of the commissioner, may bring an action in the  
93 superior court for the judicial district of Hartford to obtain  
94 enforcement of the penalty by the court. All actions brought by the  
95 Attorney General pursuant to the provisions of this section shall have  
96 precedence in the order of trial as provided in section 52-191.

97 (h) The provisions of this section are in addition to and not in  
98 derogation of any other enforcement provisions of any statute  
99 administered by the commissioner. The powers, duties and remedies  
100 provided in such other statutes, and the existence of or exercise of any  
101 powers, duties or remedies under this section or under such other  
102 statute shall not prevent the commissioner from exercising any other  
103 powers, duties or remedies available to the commissioner at law or in  
104 equity.

105 Sec. 2. Section 25-32g of the general statutes is repealed and the  
106 following is substituted in lieu thereof:

107 If the Commissioner of Public Health finds after investigation that  
108 any person is causing, engaging in or maintaining, or is about to cause,  
109 engage in or maintain, any condition or activity which violates any  
110 provision of sections 19a-36 to 19a-39, inclusive, or sections 25-32 to 25-  
111 54, inclusive, as amended by this act, or any regulation or permit  
112 adopted or issued thereunder and constitutes an immediate threat to  
113 the quality or adequacy of any source of water supply, [he] the  
114 commissioner may, without prior hearing, issue an order in writing to

115 such person to discontinue, abate, alleviate or correct such condition or  
116 activity. Upon receipt of such an order such person shall immediately  
117 discontinue, abate, alleviate or correct such condition or activity. The  
118 commissioner shall, within ten days after such order, hold a hearing to  
119 provide the person an opportunity to be heard and show that such  
120 condition, activity or violation does not exist. The local director of  
121 health in the municipality or municipalities in which such violation  
122 occurred that utilize such water company shall have the right to be  
123 heard in such proceeding. Such order shall remain in effect until ten  
124 days after the hearing within which time a new decision based on the  
125 hearing shall be made.

126 Sec. 3. Section 25-32k of the general statutes is repealed and the  
127 following is substituted in lieu thereof:

128 (a) Each water company, as defined in section 25-32a, serving one  
129 thousand or more persons or two hundred fifty or more consumers, as  
130 defined in section 25-32a, shall annually provide to residential  
131 customers, without charge, educational materials or information on (1)  
132 water conservation, [and] (2) water supply source protection methods,  
133 including methods to reduce contamination, and (3) information  
134 developed by the Commissioner of Public Health, pursuant to  
135 subsection (b) of this section, on the health effects and sources of lead  
136 and copper. Every year each public water company shall provide a  
137 copy of these educational materials to the Commissioner of Public  
138 Health.

139 (b) The Commissioner of Public Health shall, within available  
140 resources, develop, in consultation with public water suppliers, public  
141 education materials on health effects and sources of lead and copper,  
142 which shall be distributed pursuant to subsection (a) of this section.

143 [(b)] (c) The Commissioner of Public Health may impose a civil  
144 penalty on any water company that violates the provisions of this  
145 section. In imposing such civil penalty, the commissioner shall comply  
146 with the procedures set forth in section 25-32e, as amended by this act,

147 except that the amount shall not exceed five thousand dollars per  
148 violation. Each year the company fails to offer educational materials or  
149 information on water conservation shall be deemed to be a separate  
150 violation.

151 Sec. 4. Subsection (a) of section 25-36 of the general statutes is  
152 repealed and the following is substituted in lieu thereof:

153 (a) Except as provided otherwise in this part, any person or  
154 corporation aggrieved by any order of the Department of Public  
155 Health made under the provisions of part III of this chapter, may  
156 appeal therefrom in accordance with the provisions of section 4-183,  
157 except venue shall be in the judicial district in which the source of the  
158 water or ice supply is located. If such source is located in more than  
159 one judicial district, the appeal shall be taken to the court for that  
160 judicial district containing the part of such source nearest the mouth of  
161 the stream or river forming the main portion of the source of supply. If  
162 a water company is subject to such an order and such water company  
163 takes an appeal in accordance with this subsection, the water company  
164 shall provide notice of such appeal to the local director of health in the  
165 municipality or municipalities in which such violation occurred, and  
166 such local director of health shall have the right to be heard in such  
167 appeal. Each order of the Department of Public Health issued under  
168 the foregoing provisions to any person or corporation shall specify the  
169 time within which such person or corporation shall comply with the  
170 terms thereof. If such person or corporation fails to comply with the  
171 terms of such order and no appeal is taken therefrom, the state's  
172 attorney for the judicial district of Hartford shall bring a complaint  
173 against such person or corporation to the superior court for said  
174 judicial district.

175 Sec. 5. The Commissioner of Public Health shall, on or before  
176 December 31, 2001, adopt, pursuant to chapter 54 of the general  
177 statutes, regulations (1) to amend subparagraph (F) of subdivision (6)  
178 of subsection (j) of section 19-13-B102 of the Regulations of Connecticut  
179 State Agencies to require a public education program for any system

180 that exceeds the copper action level established in subparagraph (B) of  
181 subdivision (6) of subsection (j) of section 19-13-B102 of the  
182 Regulations of Connecticut State Agencies; and (2) to adopt the  
183 provisions of 40 CFR Parts 9, 141, 142, and 143, the Federal Safe  
184 Drinking Water Act Public Notification Rule, in the Regulation of  
185 Connecticut State Agencies.

186 Sec. 6. This act shall take effect from its passage, except that sections  
187 1 to 4, inclusive, shall take effect October 1, 2001."

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